

BEFORE THE NATIONAL LABOR RELATIONS BOARD
UNITED STATES OF AMERICA
THIRTIETH REGION

**MARINETTE MARINE AND TRADESMEN
INTERNATIONAL, JOINT EMPLOYERS**

Employer

and

Case 30-UC-413

**INTERNATIONAL BROTHERHOOD OF
BOILERMAKERS, LOCAL LODGE NO. 696**

Petitioner

ORDER DISMISSING PETITION FOR UNIT CLARIFICATION

The International Brotherhood of Boilermakers, Local Lodge No. 696 (Petitioner) filed a petition under Section 10(b) of the National Labor Relations Act (Act) seeking to clarify an existing bargaining unit. Marinette Marine Corp. (MMC) and Tradesmen International (TI), assert that the petition should be dismissed. Based on an administrative investigation and careful consideration, I conclude that the petition should be dismissed.¹

CASE PROCEDURAL HISTORY

MMC builds and repairs ships in Marinette, Wisconsin. The Petitioner currently represents a unit of: all production and maintenance employees, including stock room clerks employed by MMC at its Marinette, Wisconsin facility; excluding office clerical employees, professional employees, watchmen, guards, and supervisory employees, as defined by the Act (Unit).

¹ Under Section 3(b) of the Act I have the authority to make this determination on behalf of the National Labor Relations Board.

On March 12, 2004, MMC entered into a service agreement with TI. TI is a construction labor support company that hires workers in a range of manual and mechanical skill trades, including welders and pipe fitters. TI assigns these employees to clients in the commercial construction, industrial and maritime industries. Pursuant to a service agreement, TI provided MMC with skilled workers to perform shipbuilding work at MMC's shipyard in Marinette, Wisconsin.

On October 18, 2004, the Petitioner filed a petition in Case 30-UC-411 seeking to accrete into the current bargaining unit those temporary production and maintenance employees jointly employed by MMC and TI. Subsequent to the issuance of a Notice of Representation Hearing, on November 1, 2004 MMC filed a Motion to dismiss the petition because as of that date no TI employees were working at MMC and the service agreement between MMC and TI had been terminated. On November 2, 2004, the Acting Regional Director issued an Order to Show Cause requesting the Petitioner to show cause why MMC's Motion to Dismiss should not be granted. In a letter dated November 9, 2004, the Petitioner notified the Region of its intention to withdraw the petition. On November 10, 2004 the Acting Regional Director issued an Order Withdrawing Notice of Representation Hearing and Approving Withdrawal of Petition.

On January 24, 2005, the Petitioner filed the instant petition seeking to accrete into the current bargaining unit those temporary production and maintenance employees jointly employed by MMC and TI. On January 28, 2005, MMC filed a Motion to Dismiss the Unit Clarification Petition. MMC's Motion to Dismiss relies upon the Board's decision in *Oakwood Care Center*, 343 NLRB No. 76 (November 19, 2004). In *Oakwood*, the Board overruled its decision in *M.B. Sturgis, Inc.*, 331 NLRB 1298 (2000) and now requires that both the staffing firm and the user employer consent to including temporary employees in the existing bargaining

unit. In the instant matter, neither MMC nor TI so consents. As a result, the Acting Regional Director issued an Order to Show Cause requesting the Petitioner show cause in writing filed on or before February 9, 2005, why MMC's Motion to Dismiss should not be granted. The Petitioner did not respond to the Order to Show Cause.

Therefore, I find, in agreement with MMC's Motion to Dismiss, that based upon the Board's ruling in *Oakwood*, and on the fact that neither MMC nor TI consents to the accretion of the jointly employed employees into the existing Unit, that Petitioner's request for unit clarification seeking accretion of these employees should be dismissed.

Having considered the matter,

ORDER

IT IS ORDERED that the petition filed in Case 30-UC-413 is dismissed for the reasons set forth above.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by March 9, 2005.

Signed at Milwaukee, Wisconsin on February 23, 2005.

/s/ Irving E. Gottschalk
Irving E. Gottschalk, Acting Regional Director
National Labor Relations Board
Thirtieth Region
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Marinette Marine and Tradesmen International, Joint Employers
Case 30-UC-413

Copies of Order Dismissing Petition for Unit Clarification have been sent on February 23, 2005, by regular mail, to the following parties of record:

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